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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,902	10/03/2005	Christopher Mallet	C036510/0186296	1480
7590 Robert G Lancaster Bryan Cave One Metropolitan Square 211 North Broadway Suite 3600 St Louis, MI 63102			EXAMINER WEAVER, SUE A	
			ART UNIT 3781	PAPER NUMBER
			MAIL DATE 11/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/528,902

Applicant(s)

MALLET, CHRISTOPHER

Examiner

Sue A. Weaver

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3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 80-118 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 80-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:  
It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The wording is incorrect.

2. The drawings were received on 8/27/07. These drawings are accepted.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Applicant is advised that should claims 83-85 be found allowable, claims 111-113 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).
5. Claims 86-110 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 86 recites the limitation "the closure component" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 87 and 88 each recites the limitation "the teat" in line 1 and 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 89-91, 93, 94, 96, 97, 99-110 each recites the limitation "the closure" in lines 1-3. There is insufficient antecedent basis for this limitation in the claim.

6. Claims 80, 81, 83, 84, 86, 87, 111 and 112, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over Morash '206 in view of Kornely et al '768, both of record.

Note Figures 1 and 2 of Morash showing two stack of components. Note also Figure 6 with a bottom closure, To have further provided the containers with a plastic cover extending down into the container to seal it and protect it for stacking purposes would have been obvious in view of such teaching by Kornely et al.

7. Claims 82 and 114-116 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 80 above, and further in view of Lynch '811, of record

To have used adhesive to secure the cover would have been obvious in view of such teaching by Lynch at 34,

8. Claims 85, 113 and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 80 and 114 above, and further in view of Nemeth '715, of record.

To have formed the cover of Polystyrene for clarity would have been obvious in view of such teaching by Nemeth.

9. Claims 88-94, 103-110 and 118, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 80, 86 and 87 above, and further in view of Williams et al WO'074, of record.

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Williams et al teach the various forms of attachment claimed and to have provided Morash with them for a secure closure arrangement would have been obvious.

10. Claims 94, 96, 97, 101 and 102 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 80 above, and further in view of Verbovsky et al '053, of record.

To have alternately provided the closure with a spout near one edge and a vent for use by children in the manner of Verbovsky et al would have been obvious.

11. Claims 95-102, insofar as they are definite, are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 94 above, and further in view of Haberman '245, of record.

To have alternately formed the spout with a slit and a vent with a slit to prevent leaking in the manner of Haberman would have been obvious.

12. Applicant's arguments with respect to claim 80 have been considered but are moot in view of the new ground(s) of rejection.

Morash already teaches sterile packaging of the stacked containers. Claims 1-79 have been canceled. Fewer claims might produce fewer errors.

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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## Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548 and e mail address is sue.weaver@uspto.gov. The examiner can normally be reached on Tuesday-Friday (5:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick\_. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SW

  
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PRIMARY EXAMINER  
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